

HONORABLE RICHARD A. JONES

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

ROGER LEISHMAN,
Plaintiff,

v.

No. 2:20-cv-00861-RAJ

WASHINGTON ATTORNEY
GENERAL'S OFFICE; SHANE
ESQUIBEL and ANN ESQUIBEL;
NOAH PURCELL; ELIZABETH
CHRISTINA BEUSCH; PAIGE
DIETRICH; ALLYSON JANAY
FERGUSON; KARI HANSON;
SUZANNE LIABRAATEN; VALERIE
PETRIE; MICHAEL JAMES SHINN;
OFFICE OF RISK MANAGEMENT;
KATHRYN NADINE REYNOLDS;
WESTERN WASHINGTON
UNIVERSITY; BRUCE SHEPARD and
CYNDIE SHEPARD; and the OFFICE OF
THE GOVERNOR.

SECOND AMENDED
COMPLAINT

JURY DEMANDED

Defendants.

Plaintiff Roger Leishman alleges as follows:

I. INTRODUCTION

1. No one is above the law – not even lawyers, let alone government lawyers.
In Spring 2016, two of the State's top employment lawyers, Chief Deputy Attorney

1 General Shane Esquibel and Senior Counsel Kari Hanson, in concert with additional State
2 employees and the State's outside vendors, mishandled the State's response to petitions
3 made by a gay disabled employee. When other lawyers in the Attorney General's Office
4 discovered Defendant Esquibel's and Defendant Hanson's errors, they chose not to correct
5 or to mitigate the impact of their colleagues' mistakes. Instead, Defendants and their co-
6 conspirators embarked on a shameful campaign of discrimination, denial, cover up, and
7 abuse of power. This lawsuit is the result.

8 **II. PARTIES**

9 2. Plaintiff Roger Leishman is a resident of Whatcom County, Washington.

10 3. Defendant Washington Attorney General's Office is an agency of the State
11 of Washington.

12 4. Defendant Shane Esquibel is the Chief Deputy Attorney General of
13 Washington. From September 16, 2014 to March 20, 2016, Defendant Esquibel was the
14 Division Chief of the Labor & Personnel Division of the Attorney General's Office.
15 Defendant Esquibel is married to Ann Esquibel. At all times relevant herein, Defendant
16 Esquibel acted for the benefit of the marital community, and under color of state law.

17 5. Defendant Noah Purcell is the Solicitor General of Washington. At all
18 times relevant herein, Defendant Purcell acted for the benefit of any marital community,
19 and under color of state law.

20 6. Defendant Elizabeth Christina Beusch is a Deputy Attorney General. At all
21 times relevant herein, Defendant Beusch acted for the benefit of any marital community,
22 and under color of state law.

23 7. Defendant Paige Dietrich is an Assistant Attorney General, and previously
24 served as a Deputy Attorney General. At all times relevant herein, Defendant Dietrich
25 acted for the benefit of any marital community, and under color of state law.

1 8. Defendant Allyson Janay Ferguson is an Assistant Attorney General
2 assigned to the Torts Division. At all times relevant herein, Defendant Ferguson acted for
3 the benefit of any marital community, and under color of state law.

4 9. Until August 2019, Defendant Kari Hanson was an Assistant Attorney
5 General assigned to the Labor & Personnel Division. At all times relevant herein,
6 Defendant Hanson acted for the benefit of any marital community, and under color of
7 state law.

8 10. Defendant Suzanne LiaBraaten is an Assistant Attorney General assigned
9 to the Torts Division. At all times relevant herein, Defendant LiaBraaten acted for the
10 benefit of any marital community, and under color of state law.

11 11. Defendant Valerie Petrie is an Assistant Attorney General, and Chief of the
12 Labor & Personnel Division. At all times relevant herein, Defendant Petrie acted for the
13 benefit of any marital community, and under color of state law.

14 12. Defendant Michael James Shinn is an Assistant Attorney General, and
15 Chief of the Regional Services Division. At all times relevant herein, Defendant Shinn
16 acted for the benefit of any marital community, and under color of state law.

17 13. Defendant Kathryn Nadine Reynolds is the Executive Director of the
18 Washington Executive Ethics Board. At all times relevant herein, Defendant Reynolds
19 acted for the benefit of any marital community and under color of state law.

20 14. Defendant Office of Risk Management (“ORM”) is an agency of the State
21 of Washington.

22 15. Defendant Western Washington University (“WWU”) is an agency of the
23 State of Washington.

24 16. Defendant Bruce Shepard is the former President of WWU. Defendant
25 Shepard is married to Cyndie Shepard. At all times relevant herein, Defendant Shepard

1 acted for the benefit of the marital community, and under color of state law.

2 17. Defendant Office of the Governor is an agency of the State of Washington.

3 **III. JURISDICTION AND VENUE**

4 18. Plaintiff Leishman brings this suit pursuant to 42 U.S.C. § 1983, 42
5 U.S.C. § 1985, the Americans with Disabilities Act (“ADA”), and the First and Fourteenth
6 Amendments to the United States Constitution.

7 19. This Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331,
8 1343, and 1367.

9 20. Venue is properly in this Court pursuant to 28 U.S.C. § 1391(b) because
10 the events giving rise to the claim occurred in this District.

11 **IV. FACTS**

12 **Plaintiff Roger Leishman**

13 21. Leishman graduated from Yale Law School in May 1990, and has been a
14 member of the Washington Bar since November 1990.

15 22. After a distinguished twenty-five year career in private practice and public
16 service, on July 14, 2015, Leishman began employment with the Washington Attorney
17 General’s Office in Bellingham as chief legal advisor to Western Washington University.

18 23. Defendant Attorney General’s Office hired Leishman because his
19 experience and abilities were a good fit for the criteria identified both by Defendant
20 Attorney General’s Office and by Defendant Shepard.

21 24. Leishman is a disabled gay single father with three school-aged children.
22 Ever since Defendant Attorney General’s Office unlawfully fired him in May 2016,
23 Leishman has been unable to find employment as a result of misconduct by Defendants
24 and their co-conspirators.
25

1 **Leishman's disability**

2 25. Shortly after commencing work at the Attorney General's Office,
3 Leishman began exhibiting serious Body-Focused Repetitive Behaviors (including
4 trichotillomania), anxiety, bruxism, insomnia, and other physical and mental symptoms.

5 26. Leishman promptly disclosed his symptoms and his prior history of
6 managing less serious anxiety symptoms to his supervisors at the Attorney General's
7 Office.

8 27. During an employee training in September 2015, when Defendant Beusch
9 asked Leishman about his Body-Focused Repetitive Behaviors, Leishman informed
10 Defendant Beusch that he had recently begun experiencing a virulent attack of anxiety
11 symptoms.

12 28. On October 2, 2015, Defendant Shinn was apprised of Leishman's
13 disclosure that Leishman's disability causes him to rely on humor to manage his anxiety
14 in challenging social situations.

15 29. On October 16, 2015, Leishman informed Defendant Attorney General's
16 Office that he had scheduled an appointment with a physician to evaluate his recent
17 symptoms, and that he would let his employer know if Leishman's healthcare providers
18 thought there was a need to consider potential accommodations.

19 30. On October 16, 2015, Defendant Shinn was apprised that Leishman was
20 consulting with his healthcare providers regarding the need for potential accommodations.

21 31. On November 10, 2015, Leishman met with his new Bellingham physician,
22 who diagnosed Leishman with Post-Traumatic Stress Disorder and serious codependency,
23 and began his treatment.

24 32. Leishman's healthcare providers determined that his symptoms were
25 rooted in trauma that occurred decades before, but they were triggered and exacerbated by

1 the conduct of Defendant Attorney General's Office and other representatives of the State.

2 33. Leishman continues to suffer from debilitating physical and mental
3 symptoms triggered by the conduct of Defendants and their co-conspirators.

4 **Responses to Leishman's disability and sexual orientation**

5 34. Leishman's symptoms affected his behavior, including his interactions with
6 others in the workplace.

7 35. Some of Leishman's colleagues and some of his client contacts at WWU,
8 including Defendant Shepard, were bothered by behavior related to Leishman's disability.

9 36. Assistant Attorney General Kerena Higgins ("Co-Conspirator Higgins")
10 serves as Bellingham Education Team Leader.

11 37. While Leishman was employed by Defendant Attorney General's Office
12 and assigned the role of Defendant WWU's general counsel, he reported to Co-
13 Conspirator Higgins.

14 38. Co-Conspirator Higgins acted as the agent of Defendant Attorney
15 General's Office at all times relevant herein.

16 39. Co-Conspirator Higgins has spent her entire legal career employed by
17 Defendant Attorney General's Office.

18 40. Prior to 2015, Co-Conspirator Higgins had never been assigned a
19 management role, and had no experience onboarding or supervising a senior lateral hire.

20 41. Defendant Attorney General's Office negligently trained and supervised
21 Co-Conspirator Higgins.

22 42. Because of the nature of Leishman's underlying traumas, Co-Conspirator
23 Higgins' conduct was a primary trigger of Leishman's symptoms.

24 43. Assistant Attorney General Sarah Reyes ("Co-Conspirator Reyes") serves
25 as Bellingham Section Leader, and has responsibility for managing all employees in the

1 Bellingham Office of the Attorney General's Office.

2 44. Co-Conspirator Reyes acted as the agent of Defendant Attorney General's
3 Office at all times relevant herein.

4 45. Co-Conspirator Higgins is supervised by Co-Conspirator Reyes, who is
5 supervised by Defendant Shinn, who is supervised by Defendant Beusch, who is
6 supervised by the Chief Deputy Attorney General.

7 46. In Fall 2015, Defendant Beusch and Defendant Shinn concluded that
8 Leishman was a bad fit for his position as WWU's chief legal advisor.

9 47. Defendant Beusch and Defendant Shinn's conclusion was based on
10 erroneous reports about Leishman from Co-Conspirator Higgins and Co-Conspirator
11 Reyes, as well as Defendant Beusch's and Defendant Shinn's own personal judgments
12 regarding Leishman and his workplace conduct, including Leishman's conduct related to
13 his disability.

14 48. Separate from Attorney General's Office's response to his disability,
15 Leishman was also the victim of a pattern of workplace homophobia.

16 49. Although Defendant Attorney General's Office had adopted a formal
17 policy prohibiting discrimination on the basis of sexual orientation and disability, the
18 actual practice and culture at the Attorney General's Office focused only on preventing
19 discrimination involving visible characteristics like race and gender.

20 50. Defendant Attorney General's Office, including Leishman's supervisors,
21 discouraged LGBT employees from being openly out of the closet.

22 51. Defendant Attorney General's Office, including Leishman's supervisors,
23 discouraged disabled employees with nonobvious disabilities like mental illness from
24 being open about their disabilities.

25 52. Defendant Beusch and Defendant Shinn's conclusion that Leishman was a

1 bad fit for his position as WWU's chief legal advisor was also based on erroneous reports
2 about Leishman by Defendant Shepard.

3 53. Defendant Shepard's treatment of Leishman was part of a pattern of abuse
4 of power, including the unilateral firing of WWU's Internal Auditor after the auditor
5 found irregularities in Defendant Shepard's expense account.

6 54. The State ultimately paid over \$200,000 to settle the Internal Auditor's
7 wrongful termination claim.

8 55. Defendant Shepard objected to Leishman's refusal to comply with
9 Defendant Shepard's unlawful instructions.

10 56. Defendant Shepard objected to Leishman's attempts to counsel WWU to
11 refrain from unlawful conduct.

12 57. Defendant Shepard's homophobic, ableist, and racist conduct contributed
13 to a hostile workplace.

14 **Leishman's request for disability accommodation**

15 58. Kim Siebs ("Co-Conspirator Siebs") is a Human Resources Consultant
16 with the Attorney General's Office.

17 59. Co-Conspirator Siebs acted as the agent of Defendant Attorney General's
18 Office at all times relevant herein.

19 60. After repeatedly attempting to communicate with his employer about his
20 disability and symptoms, on January 22, 2016, at the direction of Co-Conspirator Reyes,
21 Leishman submitted a formal request for an accommodation of his disability to Co-
22 Conspirator Siebs.

23 61. In his January 22, 2016 email to Co-Conspirator Siebs, Leishman offered
24 his and his PTSD-specialist therapist's assistance in adapting the AGO's generic medical
25 questionnaire template to address specific mental health issues.

1 62. In his January 22, 2016 email to Co-Conspirator Siebs, Leishman also
2 alerted her to examples of adverse action taken against him in apparent violation of the
3 Washington Law Against Discrimination (“WLAD”), and informed Co-Conspirator Siebs
4 that Leishman expected that Defendant Attorney General’s Office’s ultimate resolution of
5 his pending professional development and review process would include a mechanism for
6 reversing his employer’s adverse actions. (A copy of Leishman’s January 22, 2016 email
7 is included in Exhibit A hereto.)

8 63. Rather than work with Leishman and his healthcare providers as requested
9 by Leishman, on February 4, 2016 Co-Conspirator Siebs sent a Medical Questionnaire to
10 Leishman’s PTSD therapist that included offensive, false, and homophobic accusations
11 about Leishman’s workplace conduct.

12 64. On February 9, 2016, under Defendant Beusch’s supervision, Defendant
13 Shinn, Defendant Hanson, and Co-Conspirator Siebs met to confer regarding both
14 Leishman’s professional development and review process and his parallel request for an
15 accommodation of Leishman’s disability.

16 65. On February 22, 2016, Leishman supplemented his disability
17 accommodation request with a detailed memo describing his situation. (A copy of
18 Leishman’s February 22, 2016 memo is included in Exhibit A hereto.)

19 66. Neither Leishman nor his therapist was an expert in the good faith
20 interactive reasonable accommodation process that all employers are required to
21 participate in under the ADA and the WLAD.

22 67. On February 23, 2016, Defendant Beusch, Defendant Shinn, and Co-
23 Conspirator Siebs concluded that the materials provided by Leishman’s therapist in
24 response to the Medical Questionnaire prepared by Defendant Attorney General’s did not
25

1 include sufficient medical information, and therefore no accommodation was needed for
2 Leishman to perform the essential functions of his position.

3 68. On March 1, 2016, Co-Conspirator Siebs sent Leishman a memorandum
4 from Defendant Beusch dated February 29, 2016 that denied Leishman's initial disability
5 accommodation request based on enumerated grounds.

6 69. Defendant Beusch's February 29, 2016 memorandum did not inform
7 Leishman about Defendant Attorney General's Office conclusion that no accommodation
8 was needed for Leishman to perform the essential functions of his position, and did not
9 identify that conclusion as a basis for denying Leishman's reasonable accommodation
10 request.

11 70. On March 2, 2016, Leishman informed Co-Conspirator Siebs that he
12 intended to challenge the decision by Defendant Attorney General's Office to deny his
13 initial *pro se* reasonable accommodation request.

14 71. Prior to the State's disclosure of documents under the Public Records Act
15 in 2017, no one informed Leishman that Defendant Attorney General's Office took the
16 position that Leishman did not need any accommodation in order to perform the essential
17 functions of his job.

18 **Investigation into allegations of employer discrimination based on sexual orientation**

19 72. During Leishman's long-delayed January 7, 2016 performance evaluation
20 meeting with Defendant Beusch and Defendant Shinn, Leishman discovered Defendant
21 Attorney General's Office had taken adverse employment action against him in October
22 2015 based on homophobic allegations made by Co-Conspirator Higgins. Neither Higgins
23 nor anyone else from the Attorney General's Office had previously informed Leishman
24 about her allegations.
25

1 73. On March 2, 2016, Leishman submitted a formal sexual orientation
2 complaint pursuant to the Attorney General's Office's written anti-discrimination policy.
3 Leishman alleged the Attorney General's Office had discriminated against him on the
4 basis of sexual orientation in its handling of Higgins' homophobic allegations, and that the
5 Attorney General's Office's actions were part of a pattern of implicit and explicit
6 workplace homophobia.

7 74. A copy of Leishman's sexual orientation discrimination complaint,
8 including its explanatory cover email and accompanying background materials related to
9 Leishman's separate pending disability accommodation request, is attached as **Exhibit A**.

10 75. Leishman's sexual orientation discrimination complaint contended the
11 Attorney General's Office acted on the basis of deeply rooted implicit and explicit
12 homophobia, including when Leishman's employer took serious adverse action against
13 him (such as giving \$3,000 raises to every Assistant Attorney General except Leishman in
14 October 2015).

15 76. In his March 2, 2016 email forwarding his sexual orientation
16 discrimination complaint, Leishman informed Defendant Attorney General's Office that
17 he would respond separately to the denial of his separate reasonable accommodation
18 request.

19 77. On March 2, 2016, Defendant Attorney General's Office forwarded the
20 email with Leishman sexual orientation discrimination complaint and its accompanying
21 background materials to Defendant Esquibel, Defendant Beusch, Defendant Dietrich,
22 Defendant Shinn, and Co-Conspirator Siebs.

23 78. On March 3, 2016, Defendant Esquibel, Defendant Beusch, Defendant
24 Dietrich, Defendant Hanson, and Defendant Shinn met for the purpose of discussing the
25 status of Leishman's employment.

1 79. On March 3, 2016, Defendant Attorney General's Office circulated a
2 "Litigation Hold Notice," still in effect, that forbids State representatives from destroying
3 records related to Leishman's employment.

4 **Defendant Attorney General's Office's abusive "home assignment"**

5 80. On Friday, March 4, 2016, two days after submitting his sexual orientation
6 discrimination complaint, Leishman sent an email to Deputy Attorney General Christina
7 Beusch regarding his separate disability accommodation request. Leishman's email
8 politely responded to each of the arguments set forth in Defendant Beusch's denial letter.

9 81. On March 4, 2016, Defendant Beusch forwarded Leishman's email
10 responding to the denial of his reasonable accommodation request to Defendant Esquibel,
11 Defendant Hanson, Defendant Shinn, Co-Conspirator Siebs, and Rochelle LaRose ("Co-
12 Conspirator LaRose").

13 82. On March 4, 2016, Defendant Esquibel, Defendant Hanson, and Defendant
14 Shinn met by telephone for the purpose of discussing the status of Leishman's
15 employment.

16 83. On Monday, March 7, 2016, Defendant Shinn came to Leishman's office at
17 WWU after placing a noon meeting on his calendar that morning. Without any prior
18 warning or explanation, Defendant Shinn handed Leishman a letter from Defendant
19 Beusch placing Leishman on "home assignment," effective immediately.

20 84. On March 7, 2016, Defendant Shinn also handed Leishman a copy of his
21 long-delayed performance evaluation memorandum.

22 85. Defendant Shinn purported to have prepared Leishman's March 7, 2016
23 performance evaluation memorandum based on feedback from Leishman's supervisors
24 and identified representatives from Defendant WWU.
25

1 86. Defendant Shinn's performance evaluation memorandum praised
2 Leishman's legal skills, but criticized some of Leishman's workplace conduct.

3 87. For example, in response to Defendant Shinn's questions, the Chair of the
4 WWU Board of Trustees described Leishman as a "brilliant" lawyer who sometimes had
5 trouble remaining "calm."

6 88. Defendant Shinn's performance evaluation memorandum included
7 homophobic criticisms.

8 89. Defendant Shinn concealed the fact that Defendant Shepard was the source
9 of homophobic criticisms included in the performance evaluation memorandum.

10 90. Defendant Attorney General's Office identified the Personnel Investigation
11 into Leishman's sexual orientation discrimination complaint as the sole reason for placing
12 Leishman on home assignment.

13 91. During their March 7, 2016 meeting, Defendant Shinn informed Leishman
14 that Defendant Attorney General's Office took his discrimination allegations seriously,
15 and said Leishman would be contacted when someone was assigned to investigate his
16 sexual orientation discrimination complaint.

17 92. Leishman remained on home assignment from March 7, 2016 until his
18 employment with the Attorney General's Office ended on June 1, 2016.

19 93. During this home assignment, no one from Defendant Attorney General's
20 Office or Defendant WWU ever contacted Leishman, except for administrative
21 communications related to scheduling and the investigation into Leishman's sexual
22 orientation discrimination complaint. The Attorney General's Office refused even to
23 forward Leishman's personal and professional correspondence.
24
25

1 94. Without informing Leishman, when Defendant Attorney General's Office
2 placed Leishman on home assignment he was blocked from accessing both Defendant
3 Attorney General's Office's computer network and Defendant WWU's computer network.

4 95. Defendant Attorney General's Office did not assign Leishman any work
5 while he was on home assignment.

6 96. Defendant Attorney General's Office's abusive indefinite home assignment
7 exacerbated Leishman's symptoms and caused substantial distress to him and his family.

8 97. The interactive disability reasonable accommodation process was *not* on
9 hold while Leishman was on home assignment.

10 **Engagement of licensed private investigators by State's attorneys**

11 98. Ogden Murphy Wallace, PLLC ("OMW") is a private investigator agency
12 regulated by the Department of Licensing under RCW 18.165.050.

13 99. Patrick Pearce ("Co-Conspirator Pearce") is an unarmed private
14 investigator licensed and regulated under RCW 18.165.030.

15 100. At all times relevant herein, Co-Conspirator Pearce acted as the agent of
16 OWM.

17 101. Karen Sutherland ("Co-Conspirator Sutherland") is an unarmed private
18 investigator licensed and regulated under RCW 18.165.030.

19 102. Co-Conspirator Sutherland is a member of OMW and Chair of the
20 agency's Employment & Labor practice area.

21 103. During Spring 2016, Pam Skinner ("Co-Conspirator Skinner") was the
22 Human Resources Director of the Attorney General's Office.

23 104. At all times relevant herein, Co-Conspirator Skinner acted as the agent of
24 Defendant Attorney General's Office.

25 105. The State of Washington and OMW are parties to a two-tier Master

1 Contract (“the Master Contract”) under which OMW is one of several licensed private
2 investigator agencies authorized to provide enumerated Personnel Investigation Services
3 to State agencies, including investigations regarding “Discrimination.”

4 106. The Master Contract provides that its terms, including the terms of any
5 issued work order, may only be altered by written amendment.

6 107. The Master Contract provides that any written work product prepared by
7 OWM must comply with the terms of the Master Contract and work order.

8 108. The Master Contract provides that OWM must retain all books, records,
9 documents, data and other evidence related the provision of services under the Master
10 Contract for a period of six years following the date of final payment.

11 109. The Master Contract provides that all books, records, documents, data and
12 other evidence related the provision of services under the Master Contract, including
13 materials produced or retained by OWM, are public records.

14 110. The Master Contract provides that Co-Conspirator Pearce and OMW acted
15 in their individual and corporate capacities and not as agents, employees, partners, joint
16 ventures, or associates of the State; that the parties intend that an independent contractor
17 relationship will be created by the contract; and the employees or agents of one party shall
18 not be deemed or construed to be the employees or agents of the other party for any
19 purpose whatsoever.

20 111. The Master Contract provides that during the performance of this contract,
21 OMW shall comply with all applicable federal and state nondiscrimination laws,
22 regulations and policies, including, but not limited to, Title VII of the Civil Rights Act, 42
23 U.S.C. section 12101 *et seq.*; the ADA; and the WLAD.

24 112. On March 9, 2016, Co-Conspirator Skinner conferred by phone with Co-
25 Conspirator Sutherland about engaging OMW under the Master Contract to conduct an

1 investigation into Leishman's complaint of sexual orientation discrimination.

2 113. Defendant Attorney General's Office selected OMW to conduct the
3 investigation into Leishman's sexual orientation discrimination complaint because each of
4 the firm's licensed private investigators is also a member of the bar; because the Master
5 Contract provides for low hourly rates; and because OMW has a reputation for producing
6 investigation reports that are biased in favor of management and against employees.

7 114. As authorized by the State's contract procurement process, Co-Conspirator
8 Skinner prepared a work order pursuant to the Master Contract (the "Work Order").

9 115. In an March 9, 2016 email regarding "discrimination complaint," Co-
10 Conspirator Skinner informed Defendant Esquibel, Defendant Dietrich, and Co-
11 Conspirator Siebs that Defendant Attorney General Office would be engaging OMW to
12 investigate Leishman's complaint of sexual orientation discrimination, and that OWM
13 intended to assign Co-Conspirator Pearce to conduct the investigation.

14 116. In her March 9, 2016 email, Co-Conspirator Skinner recommended that
15 Defendant Esquibel and Co-Conspirator Siebs call Co-Conspirator Pearce and give him
16 some history of the case as soon as the work order was completed.

17 117. Defendant Dietrich likewise recommended that Defendant Esquibel and
18 Co-Conspirator Siebs communicate with Co-Conspirator Pearce about the investigation
19 into Leishman's discrimination complaint.

20 118. In response to Co-Conspirator Skinner's March 9, 2016 email and
21 Defendant Dietrich's recommendation, Defendant Esquibel directed his assistant to
22 schedule a call regarding Leishman's discrimination complaint for March 11, 2016 with
23 Defendant Esquibel, Co-Conspirator Pearce, and Co-Conspirator Siebs.

24 119. Defendant Esquibel directed his assistant to also include Defendant Hanson
25 in the call with Co-Conspirator Pearce regarding Leishman's discrimination complaint.

1 120. On March 10, 2016, Co-Conspirator Skinner emailed the Work Order to
2 Co-Conspirator Sutherland and Co-Conspirator Pearce for OMW's signature.

3 121. In her March 10, 2016 email, Co-Conspirator Skinner informed Co-
4 Conspirator Sutherland and Co-Conspirator Pearce that Defendant Dietrich preferred for
5 "the complainant" to be interviewed in person.

6 122. On March 10, 2016, Co-Conspirator Sutherland executed the Work Order
7 prepared by Defendant Attorney General's Office.

8 123. On March 15, 2016, Co-Conspirator Skinner executed the Work Order on
9 behalf of Defendant Attorney General's Office.

10 124. A copy of the Work Order is attached hereto as **Exhibit B**.

11 125. The Work Order's "Statement of Work" provides that OWM will "conduct
12 an investigation of allegations made by an employee of the AGO."

13 126. Leishman is the sole complainant and the sole "employee of the AGO"
14 identified in the Work Order.

15 127. The Work Order authorized OMW to conduct an investigation solely into
16 Leishman's allegations of discrimination based on sexual orientation.

17 128. The Work Order authorized OMW to start work on March 16, 2016 and
18 end work by May 4, 2016.

19 129. OMW assigned Co-Conspirator Pearce to conduct the investigation
20 requested by Defendant Attorney General's Office.

21 130. OMW assigned Co-Conspirator Sutherland as the "Billing Member" and
22 "Supervising Member," and divided the matter origination credit between Co-Conspirator
23 Sutherland and Co-Conspirator Pearce.

24 131. Co-Conspirator Sutherland had direct supervisory authority over Co-
25 Conspirator Pearce.

1 132. Co-Conspirator Sutherland had knowledge of Co-Conspirator Pearce's
2 conduct of OMW's investigation into Leishman's sexual orientation discrimination
3 complaint during March 2016 and April 2016, and ratified Co-Conspirator Pearce's
4 conduct.

5 **Representations to Leishman regarding investigation scope**

6 133. Co-Conspirator LaRose is a Managing Human Resources Consultant with
7 the Attorney General's Office.

8 134. Co-Conspirator LaRose acted as the agent of Defendant Attorney General's
9 Office at all times relevant herein.

10 135. Consistent with the Work Order, on March 15, 2016, Co-Conspirator
11 LaRose telephoned Leishman and informed him that Co-Conspirator Pearce had been
12 retained by the Attorney General's Office as an independent outside investigator to
13 investigate the allegations in Leishman's sexual orientation discrimination complaint.

14 136. Because he was in the process of engaging an attorney with expertise in
15 disability and other employment issues, Leishman asked Co-Conspirator LaRose to
16 confirm the scope of the OMW's investigation was limited to his complaint of
17 discrimination based on sexual orientation, Leishman's own area of expertise.

18 137. During her March 15, 2016 telephone conversation with Leishman, Co-
19 Conspirator LaRose confirmed OMW's investigation was limited to the sexual orientation
20 discrimination issues raised by Leishman's employee complaint.

21 138. On March 16, 2016, Leishman spoke by telephone with Co-Conspirator
22 Pearce in preparation for their initial interview scheduled for the following day.

23 139. During their March 16, 2016 telephone conversation, Leishman informed
24 Co-Conspirator Pearce he understood the scope of OMW's investigation was limited to
25 discrimination based on sexual orientation.

1 140. On March 17, 2016 and again on April 16, 2016, Co-Conspirator Pearce
2 interviewed Leishman alone in a conference room at OMW's Seattle office.

3 141. At the beginning of their March 17, 2016 interview, consistent with the
4 Work Order, Co-Conspirator Pearce confirmed to Leishman that OMW's investigation
5 was limited to the sexual orientation discrimination issues raised by Leishman's
6 complaint.

7 142. Co-Conspirator Pearce never informed Leishman that the scope of his
8 investigation assignment from Defendant Esquibel and Defendant Hanson covered
9 anything other than Leishman's complaint of sexual orientation discrimination.

10 143. During their March 17, 2016 interview, Co-Conspirator Pearce falsely
11 informed Leishman that he was conducting an independent outside investigation into
12 Leishman's discrimination complaint, that the conduct of the investigation was not
13 directed by Leishman's employer, and that Co-Conspirator Pearce would follow the
14 evidence wherever it led.

15 144. Leishman reasonably relied on representations and material omissions by
16 Defendant Attorney General's Office and its investigator regarding the scope and nature
17 of OMW's investigation assignment.

18 **Defendant Attorney General's Office knew Leishman was represented by counsel**

19 145. Recognizing his own attempts to communicate with his employer regarding
20 his disability and his job performance were ineffective, during March 2016 Leishman
21 interviewed various private employment attorneys.

22 146. Leishman sought an experienced disability lawyer for the specific purpose
23 of engaging with his employer on Leishman's behalf in the good faith interactive
24 disability reasonable accommodation process required by the ADA and the WLAD.
25

1 147. On March 22, 2016, Leishman engaged employment attorney Sean Phelan
2 of the Seattle firm Frank Freed Subit & Thomas. Ms. Phelan has substantial experience in
3 disability, mental illness, and reasonable accommodation issues.

4 148. During 2016, Ms. Phelan represented Leishman in connection with all
5 issues related to his employment dispute, with the sole exception of Leishman's pending
6 sexual orientation discrimination complaint.

7 149. Upon reviewing copies of Leishman's correspondence with Defendant
8 Attorney General's Office, Ms. Phelan recognized that Leishman and his PTSD therapist
9 had not clearly communicated why an accommodation was needed for Leishman to
10 perform the essential functions of his position, and that the parties had not completed their
11 interactive reasonable accommodation dialogue.

12 150. Ms. Phelan recognized that Leishman's disability had caused him to
13 obsessively focus solely on the specific accommodation Leishman identified to his
14 employer in his original reasonable accommodation request.

15 151. At Ms. Phelan's direction, Leishman engaged a Bellingham psychiatrist for
16 the purpose of evaluating Leishman and providing Defendant Attorney General's Office
17 with additional medical information regarding Leishman's disability and its relationship to
18 his behavior.

19 152. On March 28, 2016, Ms. Phelan attempted to contact the Attorney
20 General's Office regarding the status of Leishman's employment and potential
21 accommodations of his disability.

22 153. On March 29, 2016, Defendant Hanson telephoned Ms. Phelan and
23 identified herself as the employment attorney representing the Attorney General's Office.
24
25

1 154. In multiple communications to Defendant Hanson from March 29, 2016
2 through May 2, 2016, Ms. Phelan requested that Defendant Attorney General's Office
3 engage in a good faith interactive dialogue about Leishman's disability.

4 155. Defendant Hanson refused to communicate with Leishman's attorney about
5 his disability, his accommodation request, his "home assignment," or the status of his
6 employment.

7 156. Defendant Hanson informed Ms. Phelan that the Attorney General's Office
8 was waiting for OMW to complete its investigation into Leishman's sexual orientation
9 discrimination complaint before Leishman's employer would respond to any of Ms.
10 Phelan's inquiries.

11 157. During April 2016, Defendant Attorney General's Office, Defendant
12 Hanson, Defendant Esquibel, and Co-Conspirator Pearce each knew or should have
13 known that Leishman was represented by an attorney.

14 **Secret expansion of OMW's investigation assignment**

15 158. Leishman and his attorney did not know that Defendant Attorney General's
16 Office had secretly expanded OMW's investigation assignment beyond sexual orientation
17 discrimination issues without amending the contractual Work Order and without
18 informing Leishman.

19 159. Prior to the March 11, 2016 telephone conference referred to in
20 Paragraph 118, Co-Conspirator Skinner forwarded to OMW a copy of Leishman's sexual
21 orientation discrimination complaint and accompanying materials, Exhibit A hereto.

22 160. During the March 11, 2016 telephone conference, Defendant Esquibel led a
23 discussion regarding the actual scope of the investigation he was initiating ("the OMW
24 Investigation").

25 161. Defendant Esquibel directed the OMW Investigation.

1 162. During the March 11, 2016 conference call, Defendant Esquibel directed
2 Pearce to investigate a second issue with no connection to Leishman's complaint of
3 employer discrimination on the basis of sexual orientation: separate secret complaints
4 from Leishman's supervisors at the Attorney General's Office regarding Leishman's
5 interaction with his supervisor and other workplace conduct ("Employee Conduct
6 Allegations").

7 163. Defendant Attorney General's Office's lawyers and investigator
8 intentionally concealed the Employee Conduct Allegations from Leishman and his
9 attorney.

10 164. The Employee Conduct Allegations included accusations related to
11 Leishman's disability.

12 165. During the March 11, 2016 conference call, Defendant Attorney General's
13 Office characterized Leishman's workplace conduct to Co-Conspirator Pearce as
14 "bizarre."

15 166. Each participant in the March 11, 2016 conference call knew that the
16 Employee Conduct Allegations involved behavior related to Leishman's disability.

17 167. During the March 11, 2016 conference call, Defendant Esquibel informed
18 Co-Conspirator Pearce that Defendant Attorney General's Office needed to get Leishman
19 out of the workplace.

20 168. The Employee Conduct Allegations reflected the Defendants' implicit and
21 explicit bias against Leishman.

22 169. Defendant Esquibel and Defendant Hanson intended to use the Employee
23 Conduct Allegations as a justification for terminating Leishman's employment.

24 170. At the conclusion of the March 11, 2016 telephone conference, Defendant
25 Esquibel directed Co-Conspirator Pearce to coordinate the OWM Investigation with

1 Defendant Hanson, and to contact Defendant Esquibel if Defendant Hanson was
2 unavailable.

3 171. Following the March 11, 2016 telephone conference, at Co-Conspirator
4 Pearce's request, Co-Conspirator Siebs sent him copies of Defendant Shinn's March 7,
5 2016 Performance Feedback Memorandum and Leishman's position description.

6 172. During the March 16, 2016 telephone conversation with Leishman referred
7 to in Paragraph 138, Co-Conspirator Pearce concealed from Leishman the fact that
8 lawyers representing Defendant Attorney General's Office had already directed their
9 investigator to include the Employee Conduct Allegations and Leishman's performance
10 within the scope of the OMW Investigation.

11 173. After speaking with Leishman on March 16, 2016, Co-Conspirator Pearce
12 sent an email to Defendant Esquibel and Defendant Hanson informing them of
13 Leishman's understanding that the scope of the OMW Investigation requested by
14 Defendant Esquibel and Defendant Hanson was limited to discrimination based on sexual
15 orientation ("Investigation Scope Email").

16 174. A copy of the Investigation Scope Email downloaded from the public file
17 in King County Superior Court Case No. 17-2-11921-1 is attached as **Exhibit C**.

18 175. The Investigation Scope Email asked Defendant Attorney General's Office
19 to confirm that the scope of the OMW Investigation included two separate issues:
20 (1) discrimination based on sexual orientation; and (2) Employee Conduct Allegations.

21 176. On March 16, 2016, Defendant Hanson responded to the Investigation
22 Scope Email by confirming to Co-Conspirator Pearce, Defendant Esquibel, and Co-
23 Conspirator Siebs their shared secret understanding regarding the scope of the OMW
24 Investigation.

25 177. Defendant Attorney General's Office never informed Leishman the scope

1 of the OMW Investigation included any issue other than discrimination based on sexual
2 orientation.

3 178. If Leishman had known Defendant Attorney General's Office's and OMW's
4 representations were false, Leishman and his disability lawyer would have objected
5 immediately. They would have refused to participate any further in the purportedly
6 "independent" investigation into Leishman's sexual orientation discrimination complaint,
7 and they would have insisted Defendant Attorney General's Office engage without further
8 delay in a good faith interactive process to address Leishman's separate pending disability
9 accommodation request, and to communicate with Leishman's counsel regarding any
10 performance concerns.

11 **Ethical violations by Defendants Esquibel and Hanson**

12 179. During his initial *ex parte* interview with Co-Conspirator Pearce on March
13 17, 2016, when Leishman was still unrepresented, Leishman offered to prepare a
14 chronology of events and evidence related to his employment.

15 180. On April 5, 2016, Leishman sent Co-Conspirator Pearce copies of
16 additional background materials related to his employment.

17 181. On April 5, 2016, after Ms. Phelan had begun her representation, Co-
18 Conspirator Pearce sent Leishman an email requesting that Leishman forward the
19 chronology Leishman had referenced during their initial *ex parte* interview.

20 182. On April 13, 2016, Leishman sent Co-Conspirator Pearce a detailed written
21 chronology ("Leishman/AGO Chronology") enumerating multiple examples of
22 homophobia and implicit bias at Defendant Attorney General's Office, outlining the
23 history of his employment with the Attorney General's Office, and identifying additional
24 witnesses and documents related to Leishman's sexual orientation discrimination
25 complaint.

1 183. A copy of the Leishman/AGO Chronology is attached as **Exhibit D**.

2 184. Leishman prepared the Leishman/AGO Chronology in April 2016 while on
3 home assignment, based on his own recollection and on personal documents in his
4 possession. In drafting the chronology, Leishman avoided references to tangential issues
5 or to any information related to the various substantive legal matters Leishman worked on
6 while employed by Defendant Attorney General's Office.

7 185. On April 14, 2016, Co-Conspirator Pearce interviewed Leishman *ex parte*
8 at OMW's Seattle office for over an hour, primarily regarding the Employee Conduct
9 Allegations.

10 186. Notwithstanding the requirements of Rule of Professional Responsibility
11 4.2, no one obtained Ms. Phelan's consent to communicate with Leishman *ex parte*
12 regarding the subject matter of Ms. Phelan's representation.

13 187. On April 29, 2016, Co-Conspirator Pearce provided his final investigation
14 report ("Ogden Murphy Report") to Defendant Attorney General's Office.

15 188. Neither Defendant Attorney General's Office nor OMW provided copies of
16 the draft or final Ogden Murphy Report to Leishman or his attorney.

17 189. Leishman and his attorney were never given any opportunity to review or
18 discuss drafts of the Ogden Murphy Report, or to respond to the Employee Conduct
19 Allegations and the supervisor Co-Conspirator Pearce relied on in reaching his
20 conclusions about Leishman.

21 190. Contrary to the terms of the contractual Work Order, the Ogden Murphy
22 Report was not limited to the sexual orientation discrimination issues raised by
23 Leishman's complaint.

24 191. According to the Ogden Murphy Report, the OMW Investigation covered
25 "two issues: A) whether Assistant Attorney General Roger Leishman experienced

1 discrimination based on his sexual orientation; and B) whether Mr. Leishman conducted
2 himself appropriately in a March 1, 2016 meeting in his office with his supervisor.”

3 192. The Ogden Murphy Report failed to address the extensive evidence of
4 implicit and explicit workplace homophobia at Defendant Attorney General’s Office that
5 Leishman had provided and identified.

6 193. The Ogden Murphy Report failed to address evidence of workplace
7 homophobia at Defendant Attorney General’s Office that Co-Conspirator Pearce himself
8 had identified in a March 21, 2016 email to Co-Conspirator Siebs (“Institutional
9 Homophobia Email”). A copy of the Institutional Homophobia Email downloaded from
10 the public file in King County Superior Court Case No. 17-2-11921-1 is attached as
11 **Exhibit E.**

12 194. The primary focus of the Ogden Murphy Report was the Employee
13 Conduct Allegations.

14 195. The Ogden Murphy Report repeatedly relied on information obtained
15 during the investigator’s *ex parte* interrogation of Leishman regarding the subject matter
16 of his representation by counsel.

17 196. The Ogden Murphy Report repeated unreliable and false hearsay as true.

18 197. The Ogden Murphy Report included numerous material false or misleading
19 statements and omissions.

20 198. Defendant Attorney General’s Office relied on the Ogden Murphy Report
21 as a basis for terminating Leishman.

22 **Multiple senior lawyers at the Attorney General’s Office were aware of Hanson’s
and Esquibel’s violations of the Rules of Professional Responsibility**

23 199. On May 3, 2016, Ms. Phelan sent Defendant Hanson another email
24 regarding the disability accommodation process.
25

1 200. In her May 3, 2016 email, Ms. Phelan informed Defendant Hanson that
2 Leishman had “recently been evaluated by a psychiatrist with regard to his medical
3 condition and its impact on his ability to perform his job – and specifically its impact on
4 his interactions with others in the workplace.” Ms. Phelan asked Defendant Hanson to
5 forward an “accommodation assessment form to send to the psychiatrist to complete.”

6 201. On May 3, 2016, Defendant Hanson forwarded a copy of Ms. Phelan’s
7 May 3, 2016 email to Defendant Dietrich and to Co-Conspirator LaRose. A copy of
8 Defendant Hanson’s May 3, 2016 email is attached as **Exhibit F**.

9 202. On Wednesday, May 4, 2016, Defendant Hanson finally responded to
10 repeated inquiries from Leishman’s attorney by sending a deceptive email to Ms. Phelan
11 requesting that they schedule a meeting for the following week. A copy of Defendant
12 Hanson’s May 4, 2016 email to Ms. Phelan is attached as **Exhibit G**.

13 203. Later on May 4, 2016, Ms. Phelan sent an email to Defendant Hanson
14 agreeing to accommodate the Attorney General’s Office’s scheduling request and meet
15 with Defendant Hanson the following week. Ms. Phelan’s email also renewed her request
16 that Defendant Hanson send a copy of the State’s preferred disability accommodation
17 form.

18 204. After receiving Ms. Phelan’s May 4, 2016 email, Defendant Hanson
19 forwarded their May 3, 2016 and May 4, 2016 email correspondence to senior lawyers
20 within the Attorney General’s Office, including Defendant Esquibel, Defendant Dietrich,
21 and Defendant Beusch, as well as to Co-Conspirator LaRose. A copy of Defendant
22 Hanson’s May 4, 2016 email to her supervisors, including her correspondence with Ms.
23 Phelan, is attached as **Exhibit H**.

24 205. No later than May 4, 2016, Defendant Esquibel and other managing
25 lawyers at Defendant Attorney General’s Office knew that their investigator had engaged

1 in improper *ex parte* communications with Leishman during the period when he was
2 represented by counsel.

3 206. Nevertheless, Defendant Attorney General's Office continued to rebuff Ms.
4 Phelan's attempts to communicate with Leishman's employer about the status of his
5 employment and potential accommodations of his disability.

6 207. Later on May 4, 2016, Defendant Hanson and Co-Conspirator Siebs
7 prepared a letter for Defendant Beusch's signature terminating Leishman's employment.

8 208. On Thursday, May 5, 2016, Co-Conspirator LaRose informed Leishman
9 the investigation into his sexual orientation discrimination complaint was complete, and
10 summoned him to meet with Defendant Beusch at the Attorney General's Office in Seattle
11 on May 9, 2016, the following Monday.

12 209. Later on May 5, 2016, Leishman's attorney Ms. Phelan sent an email to
13 Defendant Hanson asking whether the scope of Leishman's upcoming Monday meeting
14 with Defendant Beusch was limited to the investigation into Leishman's sexual orientation
15 discrimination complaint. Ms. Phelan informed Defendant Hanson that "if the purpose of
16 the meeting is also to discuss his performance, his current home assignment and/or any
17 reasonable accommodation, I would like to be present and attend the meeting as well."

18 210. On May 5, 2016, Defendant Hanson responded to Ms. Phelan with an
19 email, blind-copying Defendant Beusch, Defendant Shinn, and Co-Conspirator Siebs.
20 Defendant Hanson deceptively informed Ms. Phelan "The meeting will be to discuss both
21 the investigation and performance issues." A copy of Defendant Hanson's email is
22 attached as **Exhibit I**.

23 211. There was no discussion at the Monday, May 9, 2016 meeting. Rather,
24 Defendant Beusch handed Leishman a one sentence letter terminating his employment
25 effective June 1, 2016, together with a copy of the Ogden Murphy Report.

Deceptive amendment to Work Order

212. The Work Order authorized Defendant Attorney General's Office to pay OWM up to \$7,975 for work spent investigating Leishman's sexual orientation discrimination complaint.

213. Because Defendant Esquibel directed Co-Conspirator Pearce to instead focus on the Employee Conduct Allegations, by the end of April 2016, Co-Conspirator Pearce had completed \$17,462 worth of billable work on the OMW Investigation.

214. Most of Co-Conspirator Pearce's work on the OMW Investigation did not involve issues related to Leishman's complaint of sexual orientation discrimination or Leishman's allegation that the workplace environment at Defendant Attorney General's Office fostered implicit and explicit homophobia.

215. As OMW's Billing Member and Supervising Member on the engagement, Co-Conspirator Sutherland knew that most of Co-Conspirator Pearce's work on the OMW Investigation involved the Employee Conduct Allegations rather than Leishman's sexual orientation discrimination complaint.

216. On May 11, 2016, Co-Conspirator LaRose sent an email to Co-Conspirator Pearce stating "I am working with our contracts staff to get approval for you to submit an invoice taking the total to \$10K. Would you please confirm for me that all of your work was completed by May 4?"

217. On May 12, 2016, after Co-Conspirator Pearce had confirmed that all work was completed by May 4, Defendant Attorney General's Office issued an Amended Work Order that provided an "Amended Dollar Total" increasing the total authorized payment to \$10,000.

218. The Amended Work Order did not change the contractual deliverables or due date.

1 219. The Amended Work Order provides that “Both the Agency and the
2 Contractor are responsible for ensuring work performed is within the scope of the original
3 Work Order and this Amendment. The Agency must monitor proper compliance with the
4 terms of the original Work Order, this Amendment, and RCW 39.26. Any and all further
5 changes or amendments to the original Work Order must be in writing and acknowledged
6 by the DES/MCC [Department of Enterprise Services/Master Contract] Coordinator.”

7 220. A copy of the Amended Work Order is attached as **Exhibit J**.

8 221. Under the Master Contract and Washington’s government contract
9 procurement laws, any Personnel Investigation assignment costing more than \$10,000
10 requires a public bid process.

11 222. On May 19, 2016, Co-Conspirator Sutherland sent Co-Conspirator a final
12 invoice that wrote down \$7,232.50 of OMW’s bill, to a total of \$10,000, identified in the
13 invoice as a “Reduction to Conform to Contract.”

14 223. A copy of Co-Conspirator Sutherland’s May 19, 2016 letter and invoice is
15 attached as **Exhibit K**.

16 **Defendants’ continuing efforts to conceal attorney wrongdoing**

17 224. On May 31, 2016, Ms. Phelan sent to a letter to Defendant Hanson detailing
18 the Defendant Attorney General’s Office’s failure to comply with its duties as an
19 employer under the ADA and the WLAD, and asking the Defendant Hanson to respond to
20 a formal settlement proposal.

21 225. On June 3, 2016, Defendant Hanson forwarded Ms. Phelan’s letter to Chief
22 Deputy Attorney General Esquibel and other managing lawyers at Defendant Attorney
23 General’s Office. A copy of Ms. Hanson’s June 3, 2016 email to her superiors, which
24 includes Ms. Phelan’s May 31, 2016 letter, is attached as **Exhibit L**.

1 226. On June 6, 2016, Chief Deputy Attorney General Esquibel convened a high-
2 level meeting to discuss Ms. Phelan's May 31, 2016 letter regarding Leishman's disability
3 and termination.

4 227. From May 4, 2016 through October 2016, Defendant Attorney General's
5 Office convened multiple high-level secret Damage Control Meetings to address the
6 consequences of Defendant Esquibel's, Defendant Hanson's, and Defendant Attorney
7 General's Office's unlawful response to Leishman's disability, his sexual orientation, and
8 his engagement of counsel.

9 228. Defendant Esquibel led the Damage Control Meetings.

10 229. Other senior Attorney General's Office attorneys who participated in the
11 Damage Control Meetings include Defendant Beusch, Defendant Dietrich, then-Assistant
12 Attorney General Christopher Lanese, Defendant Petrie, and Defendant Shinn.

13 230. Notwithstanding the obligations of supervisory lawyers under the common
14 law, RPC 5.1, and RPC 5.3, no lawyer who knew of Defendant Hanson and Co-
15 Conspirator Pearce's misconduct at a time when its consequences could be avoided or
16 mitigated has ever taken any remedial action.

17 **Fraudulently induced Settlement Agreement between Leishman and State.**

18 231. Defendant Attorney General's Office never responded to Ms. Phelan's
19 May 31, 2016 letter.

20 232. On June 14, 2016, Torts Division lawyer Gary Andrews replaced
21 Defendant Hanson as the State's lawyer.

22 233. After multiple delays by Defendant Attorney General's Office, the parties
23 eventually agreed to participate in mediation in October 2016.

24 234. Despite Leishman's repeated requests during 2016, the Attorney General's
25 Office and the OMW Defendants refused to provide copies of documents related to his

1 termination, including materials specifically identified in the Ogden Murphy Report as the
2 basis of Co-Conspirator Pearce's conclusions about Leishman's workplace conduct and
3 his sexual orientation discrimination complaint.

4 235. Prior to the mediation, Defendants intentionally concealed material
5 information from Leishman and his attorney.

6 236. On October 18, 2016, Leishman's attorney submitted a copy of a Standard
7 Tort Claim Form ("2016 Tort Claim") to the State. A copy of the 2016 Tort Claim is
8 attached as **Exhibit M**.

9 237. The 2016 Tort Claim states "This claim involves legal claims of disability
10 discrimination, failure to accommodate and retaliation." The 2016 Tort Claim does not
11 refer to or involve any other claims.

12 238. During the mediation, the parties reached agreement on the terms of a
13 written Settlement Agreement, including an Addendum that was signed in November
14 2016.

15 239. The 2016 Settlement Agreement is limited to Leishman's claims identified
16 in the 2016 Tort Claim.

17 240. The Attorney General's Office Defendants fraudulently and wrongfully
18 induced Leishman to enter into the Settlement Agreement.

19 241. Under the Settlement Agreement, Leishman released the identified claims
20 against the State, including the Attorney General's Office, and any officers, agents,
21 employees, agencies, or departments of the State of Washington.

22 **Failure to disclose purported evidence related to Employee Conduct Allegations**

23 242. In the Ogden Murphy Report, Co-Conspirator Pearce identified twenty-five
24 documents that he considered for purposes of the OWM Investigation ("OMW Materials
25 Considered List").

1 243. A copy of the first two sections of the Ogden Murphy Report
2 (“I. Introduction” and “II. Materials Considered”) is attached as **Exhibit N**.

3 244. The OWM Material Considered List omits evidence related to Leishman’s
4 sexual orientation discrimination complaint that Leishman provided to Co-Conspirator
5 Pearce.

6 245. The OWM Material Considered List omits other evidence from files
7 maintained by Defendant Attorney General’s Office that Leishman identified to Co-
8 Conspirator Pearce as related to Leishman’s sexual orientation discrimination complaint.

9 246. Nine of the twenty-five items enumerated in the OWM Material
10 Considered List are documents prepared by employees of Defendant Attorney General’s
11 Office during 2015 and 2016 that were provided to Co-Conspirator Pearce at the direction
12 of Defendant Esquibel and Defendant Hanson.

13 247. Despite Leishman’s repeated requests before and after his termination,
14 Defendant Attorney General’s Office refused to provide him with copies of the nine items
15 in the OWM Material Considered List referred to in the previous paragraph until
16 compelled under to do so under the Public Records Act in 2017.

17 **Leishman’s separate lawsuit against OMW Defendants**

18 248. During Leishman’s legal career, he never had the misfortune of
19 encountering a *faux* “independent” third-party personnel investigator.

20 249. Leishman believed Co-Conspirator Pearce’s description of his role as an
21 objective independent outside professional following the evidence wherever it led.

22 250. The Introduction to the Ogden Murphy Report, included in Exhibit N
23 hereto, states that the “investigation was initiated regarding two issues: A) whether
24 Assistant Attorney General Roger Leishman experienced discrimination based on his
25

1 sexual orientation; and B) whether Mr. Leishman conducted himself appropriately in a
2 March 1, 2016 meeting in his office with his supervisor.”

3 251. Based on the representations by Defendant Attorney General’s Office and
4 Co-Conspirator Pearce set forth in Paragraphs 135-144, as well as the description of the
5 items in the OWM Material Considered List and the substance of the Ogden Murphy
6 Report, Leishman understood that Pearce himself had initiated the portion of the
7 investigation related to the Employee Conduct Allegations in response to the
8 overwhelming volume of defamatory accusations made by Leishman’s co-workers.

9 252. In January 2017, Leishman contacted Geoffrey Bridgeman, OMW’s
10 Managing Member, for the purpose of seeking OMW’s assistance in clearing his name.

11 253. Mr. Bridgeman never responded to Leishman’s inquiry. Instead, in April
12 2017 Leishman received a call from Michele Corsi, who represented OWM as outside
13 counsel.

14 254. Ms. Corsi informed Leishman that OMW and Co-Conspirator Pearce could
15 not assist Leishman because they had a fiduciary attorney-client relationship with the
16 Attorney General’s Office, and acted as the State’s agent during the OMW Investigation.

17 255. Ms. Corsi’s representation that OMW and Co-Conspirator Pearce had an
18 attorney-client relationship with Defendant Attorney General’s Office was false.

19 256. Ms. Corsi’s representation that OMW and Co-Conspirator Pearce acted as
20 the agent of Defendant Attorney General’s Office was false.

21 257. OMW engages in deceptive business practices.

22 258. Leishman discovered from public documents that OWM routinely accepts
23 payment from government agencies for providing purportedly neutral personnel
24 investigations that are in fact heavily biased in favor of management.
25

1 259. Attached as **Exhibit O** is a copy of a July 23, 2014 public memorandum
2 regarding Co-Conspirator Pearce's investigation into allegations by and about Judge
3 Patricia Petersen, the Office of the Insurance Commissioner's Chief Hearing Officer.
4 Judge Petersen ultimately settled her wrongful termination claim for \$450,000.

5 260. Attached as **Exhibit P** is a copy of a November 30, 2016 open letter to UW
6 President Ana Mari Cauce regarding Co-Conspirator Sutherland's investigation into the
7 actions of University of Washington Police Department officers.

8 261. On May 10, 2017, Leishman filed a lawsuit in King County Superior Court
9 ("the OMW Lawsuit") against OMW and Co-Conspirator Pearce ("the OMW
10 Defendants").

11 262. During the OMW Lawsuit, Defendant Ferguson and Defendant LiaBraaten
12 intentionally obstructed Leishman's efforts to uncover evidence related to his employment
13 and termination.

14 263. On November 3, 2017, the trial court granted the OMW Defendants'
15 motion for judgment on the pleadings in the OMW Lawsuits on the grounds that
16 defendants were absolutely immune from any liability under RCW 4.24.510,
17 Washington's anti-SLAPP citizen whistleblower protection statute.

18 264. On September 3, 2019, Division One of the Court of Appeals reversed the
19 trial court's ruling in a reported decision, *Leishman v. Ogden Murphy Wallace, PLLC*, 10
20 Wn.App.2d 826, 451 P.3d 1101 (2019).

21 265. On October 3, 2019, OMW and Pearce filed a petition for review in the
22 Washington Supreme Court.

23 266. On January 28, 2021, the Washington Supreme Court issued a decision
24 reversing the Court of Appeals.

25 267. On February 26, 2021, Leishman filed a Motion for Reconsideration.

1 268. On March 23, 2021, the Washington Supreme Court directed the OWM
2 Defendants to file an Answer to Leishman's Motion for Reconsideration.

3 269. The OMW Lawsuit remains pending in the Washington Supreme Court.

4 **Leishman's discovery of concealed lawyer misconduct**

5 270. In July 2017, Leishman served discovery requests on OWM seeking copies
6 of documents related to the OMW Investigation.

7 271. Leishman first learned of Defendants Esquibel's involvement on October
8 20, 2017, when counsel for OMW belatedly produced a copy of the Investigation Scope
9 Email.

10 272. Until October 2017, Leishman had never heard of Defendant Esquibel, and
11 believed that Dave Horn was still Chief Deputy Attorney General.

12 273. When the OMW Defendants' lawyers produced the Investigation Scope
13 Email on October 20, 2016, Leishman saw the addressees were Defendant Hanson, Co-
14 Conspirator Siebs, and "shanee@atg.wa.gov."

15 274. Leishman figured out Defendant Esquibel's last name from another email
16 in the OMW Defendants' belated document production.

17 275. When Leishman googled "Shane Esquibel," he discovered Defendant
18 Esquibel was the new Chief Deputy Attorney General. Defendant Esquibel was quoted
19 with his title in a March 29, 2017 article in the Everett Herald about the recent spoliation
20 of documents in the Oso mudslide litigation by Defendant Attorney General's Office.

21 276. In response to Leishman's subsequent requests under the Public Records
22 Act, Defendant Attorney General's Office eventually produced multiple emails and other
23 contemporaneous records documenting violations of the Rules of Professional Conduct
24 and other misconduct by lawyers employed by the Attorney General's Office.

Bar grievances against Defendant Esquibel and Defendant Hanson

277. On December 18, 2018, Leishman filed bar grievances against Defendant Esquibel and Defendant Hanson alleging violations of RPC 4.2, RPC 5.1, RPC 5.3, and RPC 8.4.

278. A copy of the bar grievance against Defendant Hanson is attached as **Exhibit Q**.

279. When individual attorneys employed by the State violate provisions of the Rules of Professional Responsibility, they are subject to the same disciplinary procedures as other members of the bar, and must defend themselves at their own expense. The Washington Constitution and longstanding statutory provisions prohibit lawyers from the Washington Attorney General's Office from expending public resources to defend state officers and employees accused of ethical violations. *See, e.g., Sanders v. State*, 166 Wn.2d 164, 207 P.3d 1245 (2010).

280. Nevertheless, Defendant LiaBraaten appeared in the disciplinary proceedings, at taxpayer expense, on behalf of her superior Defendant Esquibel and her co-worker Defendant Hanson.

281. In a "Preliminary Response" dated January 18, 2019, Defendant LiaBraaten falsely represented to the Office of Disciplinary Counsel that "the reasonable accommodation process was put on hold" from March 2016 to May 2016 – the same period when Leishman's attorney Ms. Phelan was attempting to communicate with Defendant Hanson about Leishman's disability and potential employer accommodations.

282. At the request of Defendant LiaBraaten and Defendant Attorney General's Office, the Office of Disciplinary Counsel deferred any further investigation into the bar grievances against Deputy Attorney General Esquibel and Assistant Attorney General Hanson pursuant to ELC 5.3(d)(1)(A).

1 283. While the Office of Disciplinary Counsel’s deferral decision was pending
2 before a Review Committee of the Disciplinary Board, Leishman submitted additional
3 evidence he had obtained in response to multiple requests under the Public Records Act,
4 summarized in a “RPC 4.2 Violation Timeline” dated October 21, 2019. A copy of the
5 RPC 4.2 Violation Timeline is attached as **Exhibit R**.

6 284. Despite numerous opportunities to do so, no Defendant or Co-Conspirator
7 has ever identified any evidence rebutting the RPC 4.2 violation allegations set forth in
8 Exhibit R.

9 285. Over Leishman’s objection, the bar grievances against Defendant Esquibel
10 and Defendant Hanson remain deferred pending the final resolution of the OMW Lawsuit.
11 **Defendants’ expenditure of public resources for private benefit.**

12 286. After lawyers from Defendant Attorney General’s Office appeared on
13 behalf of Defendant Esquibel and Defendant Hanson in their lawyer disciplinary
14 proceedings, Leishman submitted requests to the Attorney General’s Office under the
15 Public Records Act seeking copies of documents related to the expenditure of public
16 resources for the private benefit of Defendant Esquibel and Defendant Hanson in their
17 individual lawyer discipline matters.

18 287. In response to Leishman’s Public Records Act requests, the Attorney
19 General’s Office produced timekeeper summaries and billing invoices documenting the
20 expenditure of thousands of tax dollars for the private benefit of Defendant Esquibel and
21 Defendant Hanson by Defendant Ferguson, Defendant LiaBraaten, and Special Assistant
22 Attorney General Mark Fucile, the Attorney General’s Ethics Advisor.

23 **Spoliation and concealing of evidence**

24 288. On May 22, 2017, Leishman a served a request to Defendant Attorney
25 General’s Office under the Public Records Act, which was given the designation PRR-

1 2017-00270.

2 289. PRR-2017-00270 sought public records related to Leishman's employment
3 and termination, the OMW Investigation, and the relationship between OMW and the
4 Attorney General's Office.

5 290. LaDona Jensen ("Co-Conspirator Jensen") is the Director of Public
6 Records & Constituent Services at the Attorney General's Office.

7 291. Co-Conspirator Jensen's supervisor is Defendant Beusch.

8 292. Co-Conspirator Jensen acted as the agent of Defendant Attorney General's
9 Office at all times relevant herein.

10 293. On October 31, 2017, together with a final delivery of documents totaling
11 1,455 pages, Co-Conspirator Jensen represented to Leishman that Defendant Attorney
12 General's Office had produced all public records responsive to PRR-2017-00270.

13 294. The Investigation Scope Email was responsive to PRR-2017-00270.

14 295. Defendant Attorney General's Office failed to produce the Investigation
15 Scope Email in response to PRR-2017-00270.

16 296. In response to PRR-2017-00270, Defendant Attorney General's Office also
17 failed to produce any other document referring to or responding to the Investigation Scope
18 Email.

19 297. Defendant Attorney General's Office's handling of PRR-2017-00270
20 violated the Public Records Act.

21 298. On December 5, 2017, Leishman a served request to Defendant Attorney
22 General's Office under the Public Records Act, which was given the designation PRR-
23 2017-00740.

24 299. PRR-2017-00740 sought enumerated public records, including records
25 provided to Co-Conspirator Pearce for purpose of his consideration in the course of the

1 OMW Investigation; all investigator notes prepared in the course of the OMW
2 Investigation; and all records related to the March 11, 2016 telephone conference among
3 Defendant Esquibel, Defendant Hanson, Co-Conspirator Siebs, and Co-Conspirator
4 Pearce referred to in the Investigation Scope Email.

5 300. On January 23, 2018, Co-Conspirator Jensen produced 157 pages of
6 documents and represented to Leishman that Defendant Attorney General's Office had
7 produced all public records responsive to PRR-2017-0740.

8 301. The Investigation Scope Email was responsive to PRR-2017-0740.

9 302. Nevertheless, Defendant Attorney General's Office failed to produce the
10 Investigation Scope Email in response to PRR-2017-0740.

11 303. In response to PRR-2017-00740, Defendant Attorney General's Office also
12 failed to produce any other document referring to or responding to the Investigation Scope
13 Email.

14 304. Defendant Attorney General's Office's handling of PRR-2017-0740
15 violated the Public Records Act.

16 305. On January 18, 2019, purportedly in support of her representation that the
17 reasonable accommodation process was "on hold" during Spring 2016, Defendant
18 LiaBraaten filed a copy of a March 16, 2016 email from Defendant Hanson as
19 Attachment 3 to Respondents' Preliminary Response to Leishman's bar grievances
20 ("Hanson Response Email").

21 306. A copy of the Hanson Response Email is attached as **Exhibit S**.

22 307. Prior to receiving a copy of Respondents' Preliminary Response from the
23 Office of Disciplinary Counsel in January 2019, Leishman had never seen any reference
24 to the Hanson Response Email.

25 308. The Hanson Response Email was responsive to PRR-2017-00270.

1 309. The Hanson Response Email was responsive to PRR-2017-0740.

2 310. The Hanson Response Email was responsive to Leishman's discovery
3 requests to OWM and Co-Conspirator Pearce in the OMW lawsuit.

4 311. In 2019, Leishman submitted multiple new Public Records Act requests to
5 Defendant Attorney General's Office, again seeking identified public records related to
6 the OWM Investigation.

7 312. In response to Leishman's 2019 Public Records Act requests, Defendant
8 Attorney General's Office finally produced multiple documents related to the
9 Investigation Scope Email that had not previously been produced by either Defendant
10 Attorney General's Office or the OMW Defendants.

11 313. Documents produced by Co-Conspirator Jensen included Co-Conspirator
12 Pearce's answer to the Hanson Response Email (attached as **Exhibit T**) and Co-
13 Conspirator Siebs' response to the Investigation Scope Email, which states that she "will
14 defer to Shane and/or Kari as to the scope of the investigation" (attached as **Exhibit U**).

15 314. The Investigation Scope Email itself is responsive to multiple Public
16 Records Act requests submitted to Defendant Attorney General's Office.

17 315. Nevertheless, Defendant Attorney General's Office has failed to produce
18 **any** version of the Investigation Scope Email itself, including the copy of the email
19 received by Defendant Esquibel on March 16, 2016; the copy of the email received by
20 Defendant Hanson on March 16, 2016; the copy of the email received by Co-Conspirator
21 Siebs on March 16, 2016; and the copy of the email provided to Defendant LiaBraaten
22 during discovery in the OMW lawsuit.

23 316. Defendant Attorney General's Office has failed to produce other public
24 records identified by Leishman in requests submitted under the Public Records Act.
25

1 317. Defendant Attorney General's Office, Defendant LiaBraaten, Defendant
2 Ferguson, and OMW have repeatedly attempted to prevent tribunals and members of the
3 public from gaining access to the Investigation Scope Email and other material evidence.

4 318. Defendant Attorney General's Office has concealed or destroyed other
5 material evidence.

6 319. Co-Conspirator Pearce and Co-Conspirator Sutherland have concealed or
7 destroyed material evidence.

8 320. In Spring 2016, Defendant Shepard directed employees of Defendant
9 WWU to destroy material evidence related to Leishman.

10 321. Defendant Shepard and Defendant WWU have concealed or destroyed
11 other material evidence.

12 322. On September 20, 2019, Defendant Purcell asked the Washington Court of
13 Appeals to alter its published opinion in the OMW Lawsuit for the purpose of concealing
14 allegations regarding misconduct by Co-Conspirator Higgins and Defendant Attorney
15 General's Office.

16 323. On April 24, 2020, Defendant Purcell asked the Washington Supreme
17 Court for leave to file an amicus brief in the OMW Lawsuit for the purpose of concealing
18 misconduct by Defendant Attorney General's Office.

19 324. In response to Leishman's requests under the Public Records Act,
20 Defendant Attorney General's Office has improperly withheld documents under the
21 attorney-client privilege and work product doctrine.

22 325. Defendant Attorney General's Office assertions of the attorney-client
23 privilege and work product doctrine are precluded by the crime-fraud exception.

24 326. Defendant Office of the Governor has refused to respond to Leishman's
25 requests filed under the Public Records Act.

1 **Executive Ethics Board complaints against AGO Defendants**

2 327. Under the Ethics in Public Service Act, if individuals believe that a state
3 officer or state employee has engaged in activities that are in violation of the state ethics,
4 they may file a complaint with the Executive Ethics Board.

5 328. On February 25, 2020, Leishman submitted ethics complaints against
6 Defendant Esquibel and Defendant Hanson contending their unauthorized receipt of
7 public resources in connection with the lawyer disciplinary proceedings violated RCW
8 42.52.160(1).

9 329. Leishman also submitted ethics complaints against three individuals who
10 illegally expended public resources for Esquibel's and Hanson's private benefit:
11 Defendant Ferguson, Defendant LiaBraaten, and Special Assistant Attorney General Marc
12 Fucile.

13 330. A copy of the ethics complaint against Defendant Ferguson is attached as
14 **Exhibit V.**

15 331. Although the Washington Executive Ethics Board is a separate executive
16 branch agency, the Executive Ethics Board is housed within the Washington Attorney
17 General's Office, and is staffed by employees of Defendant Attorney General's Office.
18 Defendant Kate Reynolds, the Executive Director of the Washington State Executive
19 Ethics Board, is supervised by Defendant Noah Purcell.

20 332. Despite the plain language of the Ethics in Public Service Act and its
21 implementing regulations, Defendant Reynolds refused to accept for filing Leishman's
22 complaints alleging violations of the Ethics in Public Service Act by Reynolds' co-
23 workers in the Washington Attorney General's Office.

1 **Conflicts of interest**

2 333. Leishman filed a Notice of Claim pursuant to the State's tort claim process
3 on February 18, 2020.

4 334. On March 11, 2020, Defendant Office of Risk Management sent Leishman
5 a letter stating it had "assigned investigation of the claim to the Torts Division of the
6 Attorney General's Office." A copy of the March 11, 2020 letter is attached as **Exhibit W**
7 hereto.

8 335. On March 19, 2020, Leishman sent a letter to Defendant Purcell, who
9 serves as the Attorney General's general counsel, informing him that "obvious conflicts of
10 interest preclude the Torts Division from participating in this matter." A copy of
11 Leishman's March 19, 2020 letter is attached as **Exhibit X** hereto.

12 336. Defendants never responded to Leishman's March 19, 2020 letter.

13 337. Instead, in a letter dated April 9, 2020, the Attorney General's Torts
14 Division informed Leishman there would be no investigation, and "any further action to
15 pursue this claim will be your responsibility." A copy of Defendant Attorney General's
16 Office's April 9, 2020 letter is attached as **Exhibit Y** hereto.

17 338. On April 17, 2020, Leishman sent a letter to Jason Siems, the State Risk
18 Manager, alerting Defendant ORM to the clear failure of the State's public accountability
19 systems in this matter. Leishman asked Mr. Siems to take this opportunity to investigate
20 his claim objectively, rather than requiring Leishman to move forward with a lawsuit as
21 required by the tort claims statute. A copy of Leishman's April 17, 2020 letter is attached
22 as **Exhibit Z** hereto.

23 339. Defendants never responded to Leishman's April 17, 2020 letter.

24 340. On October 2, 2020, Leishman filed a Supplemental Notice of Claim.
25

Pending Mandamus action

341. After Defendant Reynolds refused to accept for filing the Executive Ethics Board complaints Leishman submitted on February 25, 2020, Leishman unsuccessfully attempted to address Reynolds' stated concerns.

342. On June 30, 2020, Leishman filed an action against Defendant Reynolds in King County Superior Court seeking a Writ of Mandamus.

343. On August 12, 2020, the court granted Defendant Reynolds' motion to transfer venue to Thurston County under RCW 4.12.020.

344. The Mandamus action is currently pending in Division One of the Washington Court of Appeals.

Defendants' continuing violations of Leishman's rights

345. Since October 20, 2017, Leishman has diligently attempted to uncover the full extent of Defendants' wrongdoing, including through requests under the Public Records Act.

346. Defendants have repeatedly attempted to conceal their wrongdoing.

347. Defendants have expended thousands of dollars in public resources in their efforts to postpone scrutiny and evade responsibility for their misconduct.

348. Defendants' conduct exacerbated Leishman's disability symptoms and caused substantial distress to him and his family.

349. During a substantial portion of the period from November 2016 to January 2020, Leishman was incapacitated by his disability, including by the injuries Defendants caused.

350. Both before and after November 2016, Defendants interfered with Leishman's efforts to gain suitable employment and to revive his professional career.

1 351. Both before and after November 2016, Defendants interfered with
2 Leishman's efforts to discover the true circumstances of his wrongful termination and to
3 petition the government for redress.

4 352. Each Defendant employed by Defendant Attorney General's Office acted
5 with the knowledge and approval of Washington Attorney General Bob Ferguson.

6 **V. GASLIGHTING CONSPIRACY**

7 353. Plaintiff Leishman repeats and re-alleges the allegations in all preceding
8 paragraphs as if fully set forth herein.

9 354. The term "gaslighting" comes from the title of classic film where an
10 abusive husband took dishonest and authoritarian actions that made his wife believe she
11 was going crazy.

12 355. Gaslighting is a substandard practice, regardless of the identity of the
13 employee or other victim.

14 356. Gaslighting is particularly abusive when the employee or other victim
15 happens to have a disability involving mental illness.

16 357. Because of the nature of Leishman's underlying traumas, gaslighting
17 tactics cause Leishman to suffer debilitating PTSD symptoms.

18 358. In August 2015, Leishman, Defendant Shinn, and Co-Conspirator Higgins
19 executed a written Performance and Development Plan ("PDP") that identified specific
20 performance expectations for the period from July 13, 2015 through August 31, 2016.

21 359. From October 2015 through March 7, 2016, Defendant Attorney General's
22 Office repeatedly delayed Leishman's PDP review and performance evaluation process.

23 360. Rather than conduct Leishman's performance and evaluation in accordance
24 with due process and the policies and procedures adopted by Defendant Attorney
25 General's Office, Defendant Shinn instead directed Co-Conspirator Reyes, Co-

1 Conspirator Higgins, and other employees to prepare detailed notes regarding Leishman's
2 conduct ("Secret Files").

3 361. Defendant Shinn also prepared additional Secret Files himself.

4 362. As identified in the OMW Material Considered List, Defendant Attorney
5 General's Office provided excerpts from the Secret Files to Co-Conspirator Pearce.

6 363. No later than October 15, 2015, Defendant Shinn, Defendant Shepard, Co-
7 Conspirator Reyes, and Co-Conspirator Higgins combined for the purpose of
8 accomplishing the purpose of terminating Leishman's employment by unlawful means
9 ("the Gaslighting Conspiracy").

10 364. No later than October 15, 2015, Defendant Shinn, Defendant Shepard,
11 Defendant Attorney General's Office, Defendant WWU, Co-Conspirator Reyes, and Co-
12 Conspirator Higgins entered into an agreement to accomplish the Gaslighting Conspiracy.

13 365. Concealment is one of the main objectives of the Gaslighting Conspiracy.

14 366. The Gaslighting Conspiracy's unlawful means include violating the Public
15 Records Act and other legal prohibitions on concealing or spoliating material evidence.

16 367. The Gaslighting Conspiracy's unlawful means include depriving Leishman
17 of the due process guaranteed to all public employees.

18 368. The Gaslighting Conspiracy's unlawful means include violating the laws
19 prohibiting discrimination on the basis of sexual orientation.

20 369. No later than January 7, 2016, Defendant Esquibel, Defendant Hanson,
21 Defendant Beusch, and Co-Conspirator Siebs agreed to join the Gaslighting Conspiracy.

22 370. Defendant Esquibel, Defendant Hanson, Defendant Beusch, and Co-
23 Conspirator Siebs ratified all prior acts by the Gaslighting Conspiracy co-conspirators.

24 371. No later than March 3, 2016, Defendant Dietrich agreed to join the
25 Gaslighting Conspiracy.

1 372. Defendant Dietrich ratified all prior acts by the Gaslighting Conspiracy co-
2 conspirators.

3 373. No later than March 4, 2016, Co-Conspirator LaRose agreed to join the
4 Gaslighting Conspiracy.

5 374. Co-Conspirator LaRose ratified all prior acts by the Gaslighting
6 Conspiracy co-conspirators.

7 375. No later than March 11, 2016, Co-Conspirator Pearce agreed to join the
8 Gaslighting Conspiracy.

9 376. Co-Conspirator Pearce ratified all prior acts by the Gaslighting Conspiracy
10 co-conspirators.

11 377. No later than April 21, 2016, Co-Conspirator Skinner and Co-Conspirator
12 Sutherland agreed to join the Gaslighting Conspiracy.

13 378. Co-Conspirator Skinner and Co-Conspirator Sutherland ratified all prior
14 acts by the Gaslighting Conspiracy co-conspirators.

15 379. No later than June 3, 2016, Defendant Petrie agreed to join the Gaslighting
16 Conspiracy.

17 380. Defendant Petrie ratified all prior acts by the Gaslighting Conspiracy co-
18 conspirators.

19 381. No later than June 8, 2017, Defendant Ferguson and Defendant LiaBraaten
20 agreed to join the Gaslighting Conspiracy.

21 382. Defendant Ferguson and Defendant LiaBraaten ratified all prior acts by the
22 Gaslighting Conspiracy co-conspirators.

23 383. No later than January 23, 2018, Co-Conspirator Jensen agreed to join the
24 Gaslighting Conspiracy.

1 384. Co-Conspirator Jensen ratified all prior acts by the Gaslighting Conspiracy
2 co-conspirators.

3 385. No later than July 17, 2019, Defendant Purcell and Defendant Reynolds
4 agreed to join the Gaslighting Conspiracy.

5 386. Defendant Purcell and Defendant Reynolds ratified all prior acts by the
6 Gaslighting Conspiracy co-conspirators.

7 387. No later than April 22, 2020, Defendant Office of Risk Management
8 agreed to join the Gaslighting Conspiracy.

9 388. Defendant Office of Risk Management ratified all prior acts by the
10 Gaslighting Conspiracy co-conspirators.

11 389. No later than May 1, 2020, Defendant Office of the Governor agreed to
12 join the Gaslighting Conspiracy.

13 390. Defendant Office of the Governor ratified all prior acts by the Gaslighting
14 Conspiracy co-conspirators.

15 391. Other acts in furtherance of the Gaslighting Conspiracy are identified in
16 Paragraphs 46-47, 49-52, 63-64, 67-69, 71-72, 77-78, 81-90, 113, 115-19, 137-53, 155,
17 160-63, 167-68, 170-72, 176-77, 181, 185-98, 201-04, 206-10, 216-18, 222, 225-31, 234-
18 35, 244-47, 262, 271, 280-82, 284, 287, 294-304, 315-26, 332, 336-39, 346-47, and 350-
19 51.

20 392. Each Defendant Co-Conspirator in the Gaslighting Conspiracy is
21 vicariously liable for the acts and omissions of each other co-conspirator.

22 393. Defendant Attorney General's Office is vicariously liable for the acts and
23 omissions of its agents.

24 394. Defendant WWU is vicariously liable for the acts and omissions of its
25 agents.

1 395. Some objectives of the Gaslighting Conspiracy have yet to be
2 accomplished.

3 396. None of the co-conspirators has abandoned the Gaslighting Conspiracy.

4 **VI. FIRST CLAIM FOR RELIEF – SECTION 1983**

5 397. Plaintiff Leishman repeats and re-alleges the allegations in all preceding
6 paragraphs as if fully set forth herein.

7 398. Acting under color of state law, each individual Defendant violated and
8 caused violations of Leishman’s clearly established petition rights, due process, and equal
9 protection rights guaranteed by the First and Fourteenth Amendments to the United States
10 Constitution.

11 399. Acting under color of state law, each individual Defendant violated and
12 caused violations of Leishman’s clearly established federal civil rights.

13 400. Defendants’ acts were intentional, malicious, willful, wanton, obdurate,
14 and in gross and reckless disregard of Leishman’s constitutional and civil rights.

15 **VII. SECOND CLAIM FOR RELIEF – SECTION 1985(3)**

16 401. Plaintiff Leishman repeats and re-alleges the allegations in all preceding
17 paragraphs as if fully set forth herein.

18 402. In addition to engaging in a civil conspiracy under Washington law, the
19 individual participants in the Gaslighting Conspiracy also violated 42 U.S.C. § 1985(3).

20 403. No later than March 11, 2016, Defendant Shinn, Defendant Beusch,
21 Defendant Esquibel, Defendant Hanson, Defendant Dietrich, Co-Conspirator Siebs, Co-
22 Conspirator LaRose, and Co-Conspirator Pearce combined for the purpose of depriving
23 Leishman of equal the protection of the laws and equal privileges and immunities under
24 the laws (“the Section 1985 Conspiracy”).
25

1 404. Defendant Petrie, Defendant Ferguson, Defendant LiaBraaten, Defendant
2 Purcell, Defendant Reynolds, Co-Conspirator Skinner, and Co-Conspirator Sutherland
3 each agreed to join the Section 1985 Conspiracy on or before the dates set forth in the
4 previous section with respect to their joining the Gaslighting Conspiracy.

5 405. Upon joining the Section 1985 Conspiracy, Defendant Petrie, Defendant
6 Ferguson, Defendant LiaBraaten, Defendant Purcell, Defendant Reynolds, Co-Conspirator
7 Skinner, and Co-Conspirator Sutherland each ratified all prior acts by the Section 1985
8 Co-Conspirators.

9 406. The Section 1985 Co-Conspirators deprived Leishman of clearly
10 established equal protection rights as a gay man.

11 407. The Section 1985 Co-Conspirators deprived Leishman of his clearly
12 established First Amendment petition rights.

13 408. The Section 1985 Co-Conspirators deprived Leishman of clearly
14 established due process rights.

15 409. Other acts in furtherance of the Section 1985 Conspiracy are identified
16 above in Paragraphs 46-47, 49-52, 63-64, 67-69, 71-72, 77-78, 81-90, 113, 115-19, 137-
17 53, 155, 160-63, 167-68, 170-72, 176-77, 181, 185-98, 201-04, 206-10, 216-18, 222, 225-
18 31, 234-35, 244-47, 262, 271, 280-82, 284, 287, 294-304, 315-26, 332, 336-39, 346-47,
19 and 350-51.

20 410. The Section 1985 Co-Conspirators acts were intentional, malicious, willful,
21 wanton, obdurate, and in gross and reckless disregard of Leishman's constitutional and
22 civil rights.

23 411. Some objectives of the Section 1985 Conspiracy have yet to be
24 accomplished.

25 412. None of the co-conspirators has abandoned the Section 1985 Conspiracy.

**VIII. THIRD CLAIM FOR RELIEF – DISCRIMINATION
BASED ON SEXUAL ORIENTATION**

413. Plaintiff Leishman repeats and re-alleges the allegations in all preceding paragraphs as if fully set forth herein.

414. Each Defendant discriminated against Leishman on the basis of his sexual orientation.

415. Defendants' discriminatory conduct proximately caused injury to Leishman.

IX. FOURTH CLAIM FOR RELIEF – NEGLIGENCE

416. Plaintiff Leishman repeats and re-alleges the allegations in all preceding paragraphs as if fully set forth herein.

417. Each individual or institutional Defendant's conduct breached the applicable standard of care.

418. The conduct of the Gaslighting Conspiracy co-conspirators breached the applicable standard of care.

419. The supervision of junior lawyers and the assigned investigator by Defendant Washington Attorney General's Office, Defendant Esquibel, Defendant Beusch, Defendant Dietrich, Defendant LiaBraaten, Defendant Petrie, and Defendant Shinn breached the applicable standard of care.

420. Defendants' conduct proximately caused injury to Leishman.

X. FIFTH CLAIM FOR RELIEF – INFLICTION OF EMOTIONAL DISTRESS

421. Plaintiff Leishman repeats and re-alleges the allegations in all preceding paragraphs as if fully set forth herein.

422. Each Defendant's conduct individually caused Leishman to suffer emotional distress.

1 423. The conduct of the Gaslighting Conspiracy co-conspirators caused
2 Leishman to suffer emotional distress.

3 424. Leishman's physical symptoms of emotional distress included nervousness,
4 insomnia, hyper-vigilance, stomach upset, bruxism, and Body-Focused Repetitive
5 Behaviors.

6 425. Leishman's symptoms constitute a diagnosable disorder susceptible to
7 medical diagnosis.

8 426. Leishman's emotional distress exhibited objective symptomology.

9 427. Any utility associated with the conduct of Defendant Attorney General's
10 Office as Leishman's employer was outweighed by the conduct's risk of harm.

11 428. Defendants' conduct was extreme and outrageous.

12 429. Defendants intentionally, recklessly, knowingly, and negligently inflicted
13 Leishman's emotional distress.

14 **XI. SIXTH CLAIM FOR RELIEF – MISREPRESENTATION**

15 430. Plaintiff Leishman repeats and re-alleges the allegations in all preceding
16 paragraphs as if fully set forth herein.

17 431. Defendants and their Co-Conspirators made the material representations
18 and omissions identified in Paragraphs 67-69, 71, 91, 135, 137, 141-43, 156, 163, 172,
19 177, 202, 210, 254, and 293.

20 432. Leishman reasonably relied on each of the identified misrepresentations
21 and omissions.

22 433. Defendants' misrepresentations and omissions injured Leishman.

23 434. Each Defendant Co-Conspirator in the Gaslighting Conspiracy is
24 vicariously liable for the misrepresentations and omissions of each other co-conspirator.
25

XII. SEVENTH CLAIM FOR RELIEF – RETALIATION & DISCRIMINATION

435. Plaintiff Leishman repeats and re-alleges the allegations in all preceding paragraphs as if fully set forth herein.

436. Since October 2017, Leishman has repeatedly applied for positions at Defendant WWU for which he was eminently qualified, including “LGBTQ+ Director,” “Title IX Coordinator,” “Disability Access Manager,” “Manager, Equal Opportunity Programs,” and “Executive Director – Office of Civil Rights.”

437. Since October 2019, Leishman has repeatedly applied for positions with Defendant Office of the Governor for which he was eminently qualified.

438. In response to these applications, Leishman has yet to receive a single interview invitation from Defendant WWU or from Defendant Office of the Governor.

439. Defendant WWU and Defendant Office of the Governor have violated provisions of Washington and federal law that prohibit employers from considering conduct related to a candidate’s disability, and from retaliating on the basis of a candidate’s exercise of rights under the ADA and the WLAD.

**XIX. REASONABLE ACCOMMODATION PROCESS
“ON HOLD” CONSPIRACY**

440. Plaintiff Leishman repeats and re-alleges the allegations in all preceding paragraphs as if fully set forth herein.

441. In releasing his “legal claims of disability discrimination, failure to accommodate and retaliation” under the 2016 Settlement Agreement, Leishman did not release any of the claims set forth above in his First through Seventh Claims For Relief.

442. This Second Amended Complaint is not intended to assert any retaliation claim for conduct occurring before December 2017, any claim for disability discrimination occurring before December 2017, or any claim for Defendant Attorney General’s Office and Defendant Beusch’s refusal to agree to the specific disability

1 accommodation Leishman initially requested.

2 443. Leishman's Eighth Claim for Relief, *infra*, is limited to asserting a claim
3 based on the unlawful obstruction of his employer's participation in a good faith
4 interactive reasonable accommodation dialogue both with Leishman himself and with the
5 employment attorney Leishman eventually hired for that specific purpose.

6 444. To the extent the Court determines the Eighth Claim for Relief is covered
7 by the 2016 Settlement Agreement, Leishman asks the Court to rescind or reform the
8 Agreement.

9 445. No later than February 23, 2016, Defendant Beusch, Defendant Esquibel,
10 Defendant Shinn, Defendant Attorney General's Office and Co-Conspirator Siebs
11 combined for the unlawful and discriminatory purpose of preventing Leishman and his
12 employer from engaging in the good faith interactive reasonable accommodation process
13 guaranteed by the ADA and the WLAD ("the Reasonable Accommodation 'On Hold'
14 Conspiracy").

15 446. No later than February 23, 2016, Defendant Beusch, Defendant Esquibel,
16 Defendant Shinn, and Co-Conspirator Siebs entered into an agreement to accomplish the
17 Reasonable Accommodation "On Hold" Conspiracy.

18 447. Concealment is one of the main objectives of the Reasonable
19 Accommodation "On Hold" Conspiracy.

20 448. Defendant Dietrich, Defendant Petrie, Defendant Ferguson, Defendant
21 LiaBraaten, Defendant Ferguson, Defendant Reynolds, Defendant ORM, Defendant
22 Office of the Governor, Co-Conspirator LaRose, Co-Conspirator Pearce, Co-Conspirator
23 Skinner, Co-Conspirator Sutherland, and Co-Conspirator Jensen each agreed to join the
24 Reasonable Accommodation "On Hold" Conspiracy no later than the dates enumerated in
25 Section V with respect to their joining the Gaslighting Conspiracy.

449. Upon joining the Reasonable Accommodation “On Hold” Conspiracy, Defendant Dietrich, Defendant Petrie, Defendant Ferguson, Defendant Lia Braaten, Defendant Ferguson, Defendant Reynolds, Defendant ORM, Defendant Office of the Governor, Co-Conspirator LaRose, Co-Conspirator Pearce, Co-Conspirator Skinner, Co-Conspirator Sutherland, and Co-Conspirator Jensen each ratified all prior acts by the Reasonable Accommodation “On Hold” Co-Conspirators.

450. Acts in furtherance of the Reasonable Accommodation “On Hold” Conspiracy are identified in Paragraphs 67-71, 77-78, 81-90, 93, 115-19, 135-43, 155-56, 160-72, 176-77, 181-98, 201-11, 216-18, 222, 225-235, 240, 246-47, 254, 262, 280-82, 284-85, 287, 283-310, 315-26, 332, 336-39, 346-47, and 350-51.

451. Each Defendant Co-Conspirator in the Reasonable Accommodation “On Hold” Conspiracy is vicariously liable for the acts and omissions of each other co-conspirator.

452. Defendant Attorney General’s Office is vicariously liable for the acts and omissions of its agents in connection with the Reasonable Accommodation “On Hold” Conspiracy.

453. Some objectives of the Reasonable Accommodation “On Hold” Conspiracy have yet to be accomplished.

454. None of the co-conspirators has abandoned the Reasonable Accommodation “On Hold” Conspiracy.

XIV. EIGHTH CLAIM FOR RELIEF – FAILURE TO ENGAGE IN DISABILITY REASONABLE ACCOMMODATION PROCESS

455. Plaintiff Leishman repeats and re-alleges the allegations in all preceding paragraphs as if fully set forth herein.

456. The acts and omissions of the Reasonable Accommodation “On Hold” Co-

1 Conspirators injured Leishman.

2 457. The acts and omissions of the Reasonable Accommodation “On Hold” Co-
3 Conspirators’ acts and omissions violated the ADA and the WLAD.

4 458. In addition to engaging in a civil conspiracy under Washington law, the
5 individual Defendants participating in the Reasonable Accommodation “On Hold”
6 Conspiracy also violated 42 U.S.C. § 1985(3).

7 **XV. PRAYER FOR RELIEF**

8 WHEREFORE, Plaintiff Roger Leishman respectfully prays for the following
9 relief:

10 459. Entry of a money judgment jointly and severally against Defendants in an
11 amount to be proved at trial, and in any event no less than \$5,000,000.

12 460. An order finding that Defendants and their co-conspirators engaged in the
13 Gaslighting Conspiracy.

14 461. An order finding that Defendants and their co-conspirators engaged in the
15 Accommodation Process “On Hold” Conspiracy.

16 462. Rescission or reformation of the 2016 Settlement Agreement and Release
17 as deemed appropriate by the Court to the extent required by Leishman’s Seventh Claim
18 for Relief.

19 463. An award of Leishman’s reasonable attorney’s fees, expenses and costs, to
20 the fullest extent allowed by law and equity; and

21 464. Any further relief as this Court may deem necessary and proper.

22 DATED this 26th day of April, 2021.

23 /s/ Roger A. Leishman
24 Roger A. Leishman, WSBA # 19971
25 *Pro se*